

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE BANK OF AMERICA CORP.  
SECURITIES, DERIVATIVE, AND  
EMPLOYMENT RETIREMENT INCOME  
SECURITY ACT (ERISA) LITIGATION

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THIS DOCUMENT RELATES TO

The Consolidated Securities Class Action

Master File No. 09 MDL 2058 (PKC)  
ECF CASE

**DECLARATION OF  
SAMSON A. ENZER**

**VOLUME III**

Samson A. Enzer declares:

67. I am associated with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel for defendants Bank of America Corporation and Banc of America Securities LLC (together, "BofA"). I submit this declaration in support of the accompanying Memorandum of Law in Opposition to Plaintiffs' Motion for Partial Summary Judgment.

68. Attached hereto as Exhibit 61 is a true and correct copy of excerpts from the deposition of Garrett Moritz in the above-referenced action, dated March 16, 2012.

69. Attached hereto as Exhibit 62 is a true and correct copy of excerpts from the deposition of Peter Hein in the above-referenced action, dated March 14, 2012.

70. Attached hereto as Exhibit 63 is a true and correct copy of excerpts from the deposition of Nicholas Demmo in the above-referenced action, dated March 5, 2012.

71. Attached hereto as Exhibit 64 is a true and correct copy of handwritten notes of Joe L. Price, dated December 17, 2008, as produced by defendants in the above-

referenced action and bearing Bates numbers BAC-ML-NYAG-502 00001114 through BAC-ML-NYAG-502 00001115.

72. Attached hereto as Exhibit 65 is a true and correct copy of email correspondence dated December 4, 2008 between Suresh Minakshisundaram, Neil Cotty, and Bob Qutub, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 70340551 through BAC-ML-NYAG 70340552.

73. Attached hereto as Exhibit 66 is a true and correct copy of email correspondence, dated December 5, 2008, from Neil Cotty to Tom Montag, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 01187638 through BAC-ML-NYAG 01187640.

74. Attached hereto as Exhibit 67 is a true and correct copy of email correspondence, dated January 13, 2009, from Bob Qutub to Neil Cotty, Joe Price, and Jeff Brown, as produced by defendants in the above-referenced action and bearing Bates number BAC-ML-NYAG 10005076.

75. Attached hereto as Exhibit 68 is a true and correct copy of email correspondence, dated November 28, 2008, from Christopher Hayward to Neil Cotty, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 00055787 through BAC-ML-NYAG 00055790.

76. Attached hereto as Exhibit 69 is a true and correct copy of email correspondence, dated December 4, 2008, from Tom Montag to John Thain, as produced by defendants in the above-referenced action and bearing Bates number BAC-ML-NYAG 10009424.

77. Attached hereto as Exhibit 70 is a true and correct copy of excerpts from the deposition of Kevin Warsh in the above-referenced action, dated March 15, 2012.

78. Attached hereto as Exhibit 71 is a true and correct copy of the Thomson Reuters “First Call” product webpage, *available at* [http://thomsonreuters.com/products\\_services/financial/financial\\_products/a-z/first\\_call/](http://thomsonreuters.com/products_services/financial/financial_products/a-z/first_call/).

79. Attached hereto as Exhibit 72 is a true and correct copy of a declaration from Jennifer Bennett in the above-referenced action, dated June 28, 2012.

80. Attached hereto as Exhibit 73 is a true and correct copy of excerpts of the deposition of Charles Gifford in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A. No. 4307-CS (Del. Ch.), dated December 9, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 80114447 through BAC-ML-NYAG 80114577.

81. Attached hereto as Exhibit 74 is a true and correct copy of excerpts of the deposition of Thomas J. May in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A. No. 4307-CS (Del. Ch.), dated December 15, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 80114578 through BAC-ML-NYAG 80114811.

82. Attached hereto as Exhibit 75 is a true and correct copy of excerpts of the deposition of Kenneth D. Lewis in *SEC v. Bank of America*, 09 CV 6829 (JSR) (S.D.N.Y.), dated October 30, 2009, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-CL 00000874 through BAC-ML-CL 00001176.

83. Attached hereto as Exhibit 76 is a true and correct copy of excerpts of the deposition of Thomas M. Ryan in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A.

No. 4307-CS (Del. Ch.), dated October 6, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 80113209 through BAC-ML-NYAG 80113486.

84. Attached hereto as Exhibit 77 is a true and correct copy of excerpts of the deposition of Monica Lozano in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A. No. 4307-CS (Del. Ch.), dated July 7, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-CL 00657266 through BAC-ML-CL 00657430.

85. Attached hereto as Exhibit 78 is a true and correct copy of excerpts of the deposition of Thomas Graham in the above-referenced action, dated March 14, 2012.

86. Attached hereto as Exhibit 79 is a true and correct copy of BofA's Second Set of Interrogatories, dated January 27, 2012.

87. Attached hereto as Exhibit 80 is a true and correct copy of Plaintiffs' Answers and Objections to BofA's Second Set of Interrogatories, dated February 27, 2012.

88. Attached hereto as Exhibit 81 is a true and correct copy of excerpts of a document, "PVG Price Verification and Process, ML Banks Investment Portfolio, September 2008 Close," as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-CL 00105266 through BAC-ML-CL 00105281.

89. Attached hereto as Exhibit 82 is a true and correct copy of excerpts from a December 5, 2008 email from Curt Kendall and enclosed spreadsheet, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 70304741 through 70304849.

90. Attached hereto as Exhibit 83 is a true and correct copy of excerpts from December 8, 2008 email correspondence between Neil Cotty and John Thain and enclosed

slides, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 10016125 through BAC-ML-NYAG 10016139.

91. Attached hereto as Exhibit 84 is a true and correct copy of excerpts from a December 8, 2008 email from Craig Rosato and enclosed slides, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 70342427 through BAC-ML-NYAG 70342636.

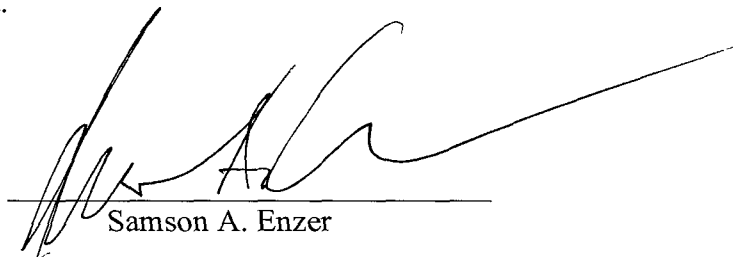
92. Attached hereto as Exhibit 85 is a true and correct copy of excerpts from a December 8, 2008 email from Steve Brown and enclosed slides, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 10006633 through BAC-ML-NYAG 10006701.

93. Attached hereto as Exhibit 86 is a true and correct copy of a December 9, 2008 email from Steve Brown and enclosed slide, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 10006702 through BAC-ML-NYAG 10006703.

94. Attached hereto as Exhibit 87 is a true and correct copy of Plaintiffs' Supplemental Responses and Objections to BofA's Second Set of Interrogatories, dated May 14, 2012.

95. In accordance with 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
June 29, 2012



Samson A. Enzer